

REMARKS

The Applicant and the Applicant's attorney wish to thank the Examiner for the telephonic interview that took place on September 9, 2004. During the interview, the Davis reference was briefly discussed. In addition, the Applicant's website www.lovesac.com and associated goods were mentioned. In the Final Office Action, Claims 1-2, 4-16, and 34-35 were rejected. By this Amendment Claims 17-33 are cancelled and the pending Claims 1, 12-14, and 34 have been amended. In addition, new Claims 36-51 have been added to the application. Applicant submits that the claim amendments and the newly added claims do not add new matter and entry thereof is respectfully requested. Furthermore, Claims 1-2, 4-16, and 34-51 are in condition for allowance. Reconsideration of the above-identified claims is now respectfully requested.

Rejections Under 35 U.S.C. § 102

In the Final Office Action, a rejection under 35 U.S.C. § 102(b) was made to Claims 1-2, 4, 12-16, and 34-35 as being anticipated by U.S. Patent No. 4,327,046 by Davis et al. (the "Davis" patent).

Applicant's invention is highly advantageous to the furniture art. In particular, shrinking the chair as disclosed in the application provides tremendous benefits with regards to shipping.

For instance, as indicated in the specification

...when the volume of the chair 14 is diminished, the weight of the chair also decreases, thus, reducing packaging and shipping costs of the chair. Furthermore, as the size of chair 14 decreases, chair 14 increases in firmness which facilitates carrying and stacking of chairs.

See ¶ 0042, ll. 7-10.

In addition, the use of an air-permeable storage container, such as a fabric or duffle bag, provides many advantages:

One advantage of employing an air-permeable bag 44 such as a fabric bag (e.g. a duffle bag) is that the bag will let some air in, but only expand to a certain size, thereby maintaining the overall assembly in a convenient size for storage and shipping.

See ¶ 0056, ll. 4-7. Also, the cylindrical shaped bag such as a duffle bag is “convenient for carrying, storing and/or shipping chair 14” (see ¶ 0057, line 9) and “is much easier to carry than a large chair, or even a boxed structure” (see ¶ 0057, line 12).

When the storage container is a durable, flaccid, fabric bag, the bag can withstand the expansion pressures of the chair so that it is not necessary to seal the vacuum chamber (see ¶ 0068, ll. 1-3). Not sealing the vacuum chamber provides benefits. Leaving the vacuum chamber open enables the chair to expand to its original volume in about a day after it is removed from the storage container. In contrast, when the vacuum chamber is sealed, it can take up to one week for the chair to expand to its original size. Hence, leaving the vacuum chamber open during storing and/or transportation significantly increases the eventual rate of expansion of the chair, allowing the user to enjoy the uses of the chair more quickly after removing the storage container and vacuum chamber. See ¶ 0068. Further, the durable, flaccid, fabric bag prevents the chair from expanding unexpectedly and causing a potentially hazardous situation when a number of chairs are stacked (see ¶ 0069, ll. 3-5).

On the other hand, the Davis patent relates to a method for producing a rigid, shaped mass support system that a user can sit upon. The support system is formed by mixing rigid beads with a binder material in a flexible, elastic polymeric container, and thereafter removing excess air therefrom (see col. 3, ll. 25-46) sufficient to allow the binder material to “set up” (see

col. 7, ll. 30-40). After set up, the container material can be removed or left on (*see* col. 5, ll. 42-68).

The Davis patent fails to disclose a chair comprising an air permeable bladder and a filler disposed within the bladder, as required by Claim 1. Rather, the Davis patent discloses the use of an air impermeable bladder or an "elastic polymeric film," (*see* Davis, col. 3, line 27) such as a "commercial latex rubber weather balloon" (*see* Davis, col. 5, ll. 25-26) to house a plurality of rigid particles in a binder material. Additionally, the Davis patent fails to disclose a packaged furniture assembly having an air permeable storage container configured to house a chair and vacuum chamber therein when the chair is selectively compressed, as Claim 1 requires. Thus, Davis fails to anticipate Claim 1.

Similarly, the Davis patent does not disclose a chair comprising an air permeable bladder, nor a packaged furniture assembly having an air permeable storage container, as claimed in Claim 34.

Claims 1 and 34, particularly as amended, are also patentable in light of U.S. Patent No. 3,968,620 by Keltner. For example, Applicant's invention is directed to a packaged furniture assembly having a storage container configured to receive or house a chair and vacuum chamber therein, wherein the storage container comprises an air permeable material such as a fabric or some other breathable material.

Claims 36-51 have been added to this application, of which Claims 42, 45, and 48 are independent claims. Neither Davis nor Keltner disclose a furniture assembly comprising a duffle bag as required by Claim 42, nor a storage container that comprises a fabric bag as required by Claim 45, nor a flexible, air permeable cotton bag as claimed in Claim 48.

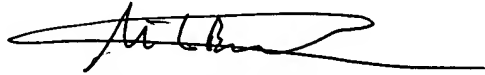
In conclusion, Applicant respectfully submits that pending Claims 1-2, 4-16, and 34-51 are in condition for allowance. Therefore, reconsideration of the above-identified claims is now respectfully requested.

Conclusion

Reconsideration and allowance of the above-identified claims is now respectfully requested. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

DATED this 21 day of September 2004.

Respectfully submitted,



Michael M. Ballard
Registration No. 54,978
Agent for Applicant
Customer No. 022913
Telephone No. (801) 533-9800

DBD:MMB:jbe
JBE0000004048V001